HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.R. No.1450 of 2005.

Date of decision : 1.12.2006.

Kharaiti Lal **.....Petitioner**

versus

Gurjit Singh and another **.....Respondents**

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA.

Present : Mr.A.K.Kalsy, Advocate for the petitioner.

Mr.Gurcharan Dass, Advocate for the respondents.

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ORDER

HEMANT GUPTA, J. (Oral)

The present revision petition is against the order dated 16.12.2004, passed by the learned Rent Controller, dismissing the application filed by the petitioner holding that the application for leave to contest is beyond the period of limitation.

The question whether Section 5 of the Limitation Act is applicable in respect of the proceedings under the Rent Act, has been examined by this Court in "***2006(2) RLR-435, Babu Ram versus Naresh Kumar".*** It has been held that the Rent Controller has no power to condone delay in filing the application for leave to contest as the Limitation Act, 1963 is not applicable to the rent proceedings. The said judgment has been rendered relying upon the Hon'ble Supreme Court judgment ***"2003 (8) SCC-431 – Parkash H.Jain versus Marie Friends".*** This Court held to the following effect -

> "The applicability of the provisions of the Act, therefore, is to be judged not from the terms of the Limitation Act, but by adverting to the provisions of the Act

relating to filing of a petition under Section 13-A of the Act for seeking immediate possession of a `residential' or `scheduled building' for which a right accrues to certain persons. It is to be seen by adverting to the provisions and where the procedure provided therein is a complete Code in itself, it does not then admit the application of the provisions of the Limitation Act mentioned in Section 29 (2) thereof. A reference to the provisions of Sections 13-A and 18-A of the Act would show that the procedure provided regarding right to recover immediate possession of `residential' or `scheduled building', is a complete code by itself and the same does not admit the application of any provision of the Limitation Act mentioned in Section 29 (2) thereof. It is also appropriate to note that in terms of Section 18-B of the Act, it is provided that Section 18-A or any rule made for the purpose thereof, shall have effect notwithstanding anything inconsistent therewith contained elsewhere in this Act or in any other law for the time being in force. This also would exclude the applicability of the Limitation Act. The procedure prescribed for seeking recovery of immediate possession of `residential' or `scheduled building' in terms of Section 13-A of the Act, would not admit the applicability of the provisions of the Limitation Act."

In view of the above, I do not find any patent illegality or irregularity in the order passed by the learned Rent Controller, which may warrant interference by this Court in exercise of its revisional jurisdiction.

Dismissed in limine.

(HEMANT GUPTA)
JUDGE

December 1, 2006
**mohinder*